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THE

CANADA TEMPERANCE ACT

OF

1878,

AND AMENDMENTS.

(THE SCOTT ACT.)

Toronto:
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SUGGESTIONS

How to bring the Temperance Act into Circulation.

First—A convention of delegates should be called from the different municipalities in a county, or from the different wards in a city, to consider the propriety of submitting the Act to a vote of the electors. This meeting may be called by any organization, or by a joint committee of different organizations. In counties having a branch of the Dominion Alliance, this body, as an organization composed of the most prominent Temperance workers, will be found an excellent medium to carry on the agitation.

Second.—Having decided to enter upon the agitation, it is necessary that Committees be appointed for canvassing each polling subdivision and obtaining names to the Petition of "Electors qualified and competent to vote at the election of a member of the House of Commons." The work should be so divided that every Elector should be given an opportunity to sign the Petition (see form of Petition, sec. 5 of Act) the subsequent proceedings will be found in the first part of the Act.

As soon as the petitions are put in circulation, public meetings should be held and a general agitation of the question take place. A thorough and practical system of organization is most essential to success, and under any circumstances, an agitation should not be attempted without the co-operation of all Temperance workers and organizations. It is a great mistake and interferes greatly with the success of such an undertaking, if one particular body or order assumes the control of the work; when conducted under the direction of an Alliance of the friends of Temperance generally, it will be found to secure the hearty co-operation of all Temperance workers.

How to Assist in Enforcing the Laws.

There is a mistaken impression on the minds of a large body of Temperance workers, that to give information or assist in the enforcement of the laws is dishonourable, and that it is a disgrace to be known as an informer. This is a great mistake, and should be repudiated by all citizens who are loyal to their country and faithful to its laws. If society wishes to rid itself of crime, all good citizens must assist in the enforcement of the laws and aid the officials in the execution of their duty. It is, therefore, incumbent on all who wish success to our work, to see the laws strictly enforced. Experience in the past has demonstrated that it is much easier to bring a law into operation than to enforce it, and that unless public opinion sustains the officials, the law becomes a dead letter. This argument is freely used by our opponents who are engaged in violating the laws, and in this way endeavouring to bring them into disrepute.

It will be seen from the following suggestions, that by a little effort and quiet confidential work, the different organizations and Temperance workers can render valuable assistance in enforcing the laws, and at the same time their names not appearing,

as all information given by parties is held sacred by the officials. It should be remembered that anonymous letters giving information will not be acted on by the Inspectors or other officers.

The Liquor License Act.

Section 94 provides that it is the duty of any Officer, Constable, or Licen Inspector, when information is given to such officer, that there is cause to susp that some person is violating the law, to make diligent enquiry into the truth such information, and enter complaint before the proper court without communicat the name of the person giving the information.

Sections 95 and 96 provide for the rights of Constables and other Officers enter taverns, &c. Persons offering them any obstruction are liable to heavy pen ties.

Attention is directed to the several clauses (commencing with Sec. 110) in "Temperance Act of 1878" which apply to the "Dunkin" and "Crook Acts; providing for tampering with witnesses, compounding offences, penalties tampering and compromising, how offences may be described, not necessary to sh that money actually passed, second offences, how proven, &c.

THE CANADA TEMPERANCE ACT OF 1878.

41 VICTORIA, CHAP. 16.

An Act respecting the Traffic in Intoxicating Liquors.

[*Assented to* 10*th May*, 1878

Preamble.

WHEREAS it is very desirable to promote temperance in the Dominion, and that there should be uniform legislation in all the Provinces respecting the traffic in intoxicating liquors:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PRELIMINARY.

Short title.

1. This Act may be cited as "*The Canada Temperance Act*, 1878."

Interpretation.

2. In this Act, the expression "intoxicating liquor" means and comprehends any and every wine, and any and every combination of liquors or drinks that is intoxicating; and the word "county" includes every town, township, parish, and other division or municipality, except a city, within the territorial limits of the county, and also a union of counties where united for municipal purposes.

Repeal of certain sections of Act of the Province of Canada, 27 & 28 V. c. 18, as to municipalities in which no by-law has been passed.

3. Sections one, two, three, four, five, six, seven, eight, nine and ten of the Act of the Legislature of the late Province of Canada, passed in the session thereof held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, and chaptered eighteen, and to be cited as "*The Temperance Act of* 1864," are hereby repealed from and after the passing of this Act, as to every municipality within the limits of the said late Province of Canada in which no by-law passed and approved, or adopted and passed, under the authority and for the enforcement of the said Act,

(*a*) Is then in force, or

(*b*) Is then only in force for want of the delivery of a copy thereof to the proper officer, or

(*c*) Is then suspended as to its operation until the expiration of the then existing licenses:

2. And as to every municipality within the limits of the said late Province of Canada in which a by-law passed and approved, or adopted and passed, under the authority and for the enforcement of the said Act is at the time of the passing of this Act,

(*a*) In force, or

(*b*) Only not in force for the want of the delivery of a copy thereof to the proper officer, or

(c) Suspended as to its operation until the expiration of the then existing licenses:

the said sections one, two, three, four, five, six, seven, eight, nine and ten of the said Act shall be repealed upon, from and after the day next following the day on which such by-law is repealed under the provisions of the said Act, or of this Act;

Proviso: If such a municipality is included in a county or city in which the second part is brought into force.

Provided always that if such municipality be included in the limits of, or have the same limits as any county or city in which the second part of this Act is brought into force before the repeal of such by-law, then such by-law shall thereupon *ipso facto* become and be null and void and of no effect whatever, and the said sections one, two, three, four, five, six, seven, eight, nine and ten of the Act shall be repealed upon, and from and after the day on which the said second part of this Act comes into force and takes effect in such county or city; but no repeal of the said Act under the provisions of this section shall affect any act done or right of action existing, accruing, accrued or established, or any proceedings commenced, or any penalty or forfeiture incurred under its provisions before the time when such repeal takes effect.

FIRST PART.

PROCEEDINGS FOR BRINGING THE SECOND PART OF THIS ACT INTO FORCE.

Form of petition to Governor-General.

4. Any petition to the Governor-General in Council for the bringing of the second part of this Act into force in any county or city may be in the form of Schedule A to this Act or in words to the same effect.

Form of notice of desire to have votes of electors taken.

5. Such petition may be embodied as a Schedule A to this Act, in a notice in writing addressed to the Secretary of State for Canada, and signed by electors qualified and competent to vote at the election of a member of the House of Commons in the county or city, to the effect that the signers desire that the votes of all such electors, hereinafter termed electors, be taken for and against the adoption of the petition.

Evidence of notice being given by one-fourth of electors.

6. Together with, or in addition to, every such notice, there shall be laid before the Secretary of State, evidence that there are appended to it the genuine signatures of at least one-fourth in number of all the electors in the county or city named in it, and that such notice has been deposited in the office of the Sheriff or Registrar of Deeds of or in the county or city, for public examination, by any parties, for ten days preceding its being laid before the Secretary of State; and that two weeks previous notice of such deposit had been given in two newspapers published in or nearest to the county or city, and by at least two insertions in each paper.

In that case a proclamation may issue.

7. In case it appears by evidence to the satisfaction of the Governor-General in Council, that any such notice has appended to it the genuine signatures of one-fourth or more of all the electors in the county or city named in it, and has been duly deposited as aforesaid, after notice as aforesaid, His Excellency in Council may issue a proclamation under this part of this Act.

8. Such proclamation shall be inserted at least three times in the *Canada Gazette*, and three times in the Official Gazette of the Province in which the county or city is situated. Proclamation to be published.

9. In such proclamation there may be set forth:— What to be set forth in proclamation.

(*a*) The notice in full, with the proposed petition embodied in it;

(*b*) The number of the signatures to the notice;

(*c*) The day on which the poll for taking the votes of the electors for and against the petition will be held;

(*d*) That such votes will be taken between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, and by ballot;

(*e*) The name of the Sheriff, Registrar, or other person appointed Returning Officer for the purpose of taking, on that day, the votes of the electors for and against the petition, and of afterwards summing up the same and making a return of the result to the Governor-General in Council;

(*f*) The power of the Returning Officer to appoint a Deputy Returning Officer at and for each polling place or station;

(*g*) The place where, and the day and hour when, the Returning Officer will appoint persons to attend at the various polling stations, and at the final summing up of the votes on behalf of the persons interested in, and promoting or opposing respectively, the adoption of the petition;

(*h*) The place where, and the day and hour when, the votes of the electors will be summed up, and the result of the polling declared by the Returning Officer;

(*i*) The day on which, in the event of the petition being adopted by the electors, the second part of this Act will go into force in the county or city in question;

And any such further particulars with reference to the taking and summing up of the votes of the electors as the Governor-General in Council may see fit to insert therein:

2. But no polling of votes under this Act shall be held in any city, county or district on the same day that any election may take place in such city, county or district for members to serve in the Parliament of Canada, or in any of the Local Legislatures of the Dominion. No polling on certain days.

10. Either the Sheriff or the Registrar of Deeds, or one of the Sheriffs, or one of the Registrars of Deeds for the county or city, or for a portion of the county or city in which the poll is to be held, or the nearest Sheriff or Registrar, or any other person may be appointed Returning Officer in any case under this part of this Act; and the naming of any person in any proclamation issued under this Act shall be a sufficient appointment, and sufficient evidence of the appointment of such person as Returning Officer for the purposes mentioned in the proclamation. Who may be appointed returning officer

11. On receiving a copy of the proclamation, the Returning Officer shall forthwith endorse thereon the date at which he shall have received the same; and before taking any further action thereon, he shall take before a Justice of the Peace the oath of office in the form of Schedule B to this Act. Returning officer to take oath of office.

Qualification of voters.

12. All persons qualified to vote at the election of a member of the House of Commons in any county or city to which any proclamation issued under this Act relates on the day on which a poll is held in compliance with such proclamation, and no others, shall be qualified to vote and to have their votes polled on that day, for or against the adoption of the petition mentioned in such proclamation.

Returning officer to ascertain who are qualified to vote.

13. The Returning Officer shall ascertain from the lists of voters, which, under the provisions of this Act, are to be used at the polling of votes—and, in every county or city where there are voters entitled to vote, but there are no lists of voters, from such other information as may be within his reach—the number of, or probable number of persons qualified to vote in each town, parish, township, or ward in the city, where the voters are so entitled to vote; and if such town, parish, township, local municipality or other locality or such ward, has not been subdivided for electoral purposes into polling districts by the Legislature, or by the local authorities under the legislation of the Province wherein such county or city is situate, or by the Returning Officer at the then last election of a member of the House of Commons in the county or city, he shall subdivide such town, parish, township, local municipality or other locality in the county, or ward in the city, into polling districts, in a convenient manner, so that that there shall be at least a polling district for every two hundred voters; and he shall also fix a polling station in a central and convenient place in each polling district; and the Returning Officer may in his discretion grant such additional polling places in such polling districts as the extent of the district and the remoteness of any body of its voters from the polling place may render necessary, although the voters hereof may be less than the number above specified:

To subdivide localities into polling districts.

And fix a polling station, or more, in each polling district.

Returning officer to post up notices indicating polling stations and limits of polling districts.

2. The Returning Officer shall then, eight days at least before the day on which the poll for taking the votes of the electors for and against the petition is to be held, by a notice under his hand, indicate, with reference to the holding of such poll, the several polling stations fixed by him, and the terrritorial limits to which they shall respectively apply, and shall cause the said notice to be posted up at four of the most promnent and conspicuous places in each polling district.

Further duties of returning officer. Deputies.

14. It shall further be the duty of every person so appointed Returning Officer:—

Firstly; To appoint, by a commission under his hand, in the form Schedule C to this Act, one Deputy Returning Officer for each polling district comprised in the county or city, who shall, before acting as such, take before the Returning Officer or a Justice of the Peace the oath of office in the form, Schedule D to this Act;

Lists of voters.

Secondly: To furnish each Deputy Returning Officer with a copy of the list or of such portion of the list of voters as contains the names, arranged alphabetically, of the electors qualified to vote at the election of a member of the House of Commons at the polling station for which he is appointed,—such being first certified by himself or by the proper custodian of the lists from which such copies are taken;

Ballot boxes.

Thirdly: To deliver to each Deputy Returning Officer, eight days at least before the polling day, a ballot box to receive the ballot papers of the voters,—which ballot box shall be made of some durable material, with one lock and key, and a slit or narrow opening in the top, and s

constructed that the ballot papers may be introduced therein, but cannot be withdrawn therefrom without the box being unlocked;

Fourthly: To furnish each Deputy Returning Officer with a sufficient number of ballot papers (all being of the same description, and as nearly as possible alike) to supply the number of voters on the list of such polling district, and with the necessary materials for voters to mark their ballot papers; Ballot papers.

Fifthly: To furnish to each Deputy Returning Officer at least ten copies of printed directions for the guidance of voters in voting,—which printed directions the Deputy Returning Officer shall, before or at the opening of the poll, on the day of polling, cause to be posted up in some conspicuous places outside the polling station, and also in each compartment of the polling station. Directions.

15. The Returning Officer shall obtain the different lists of voters, or copies or extracts thereof, from the Registrars, City or Town Clerks, Clerks of the Peace or such other officers as may by law be the proper custodians of such lists, or of duly certified duplicates or copies thereof; and the lists of voters which would be used at an election of a member of the House of Commons in the same district at the same time shall be the lists of voters which shall be used at every polling of votes under the provisions of this Act; and every such officer who shall omit or refuse to furnish such lists, copies or extracts of the voters' lists within a reasonable time to the Returning Officer requiring the same, shall incur a penalty of not less than two hundred and not exceeding two thousand dollars. Obtaining lists of voters. Penalty for refusing to furnish lists.

16. Whenever the Returning Officer fails to furnish to the Deputy Returning Officer in any polling district the ballot box, within the time prescribed by this Act, it shall be the duty of such Deputy Returning Officer in such polling district to cause one to be made. If ballot box be not furnished.

17. The ballot of each voter shall be a printed paper in this Act called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to the form of Schedule E to this Act. Form of ballot papers.

18. The printed directions to be furnished to the Deputy Returning Officers shall be according to the form of Schedule F to this Act. Form of directions.

19. At the place and time named for that purpose in the proclamation, the Returning Officer shall by an instrument in writing signed by him appoint from and out of such persons as may apply to him to be so appointed one person to attend at each polling station, and two persons to attend at the final summing up of the votes, as agents on behalf of the persons interested in and desirous of promoting the adoption of the petition, and one person to attend at each polling station, and two persons to attend at the final summing up of the votes as agents on behalf of the persons interested in and desirous of opposing the adoption of the petition. Appointment of agents in each interest.

20. Before any person is so appointed he shall make and subscribe before the Returning Officer or any Deputy Returning Officer a declaration, in the form of Schedule G to this Act, to the effect that he is interested in and desirous of promoting or opposing (as the case may be) the adoption of the petition. Form of oath of person to be appointed agent.

21. Every person so appointed, before being admitted to the polling station, or to the final summing up of the votes, as the case may be, shall produce to the Deputy Returning Officer his written appointment, Agent to produce appointment.

Appointment and oath of substitute for agent.

22. In the absence of any person authorized as aforesaid to attend at any polling station, or at the final summing up of the votes, any elector in the same interest as the person so absent, may, upon making and subscribing before the Deputy Returning Officer at the polling station, or the Returning Officer at the final summing up of the votes, as the case may be, a declaration in the form G to this Act, be admitted to the polling station, or to the final summing up of the votes, as the case may be, to act for the person so absent.

Provision respecting attendance of agents.

23. Where in this part of this Act any expressions are used, requiring or authorizing any act to be done, or inferring that any act or thing is to be done in the presence of the agents interested, such expressions shall be deemed to refer to the presence of such agents as may be authorized to attend, and as have, in fact, attended at the time and place where such act or thing is being done; and the non-attendance of any agents or agent at such time and place shall not, if the act or thing be otherwise duly done, invalidate in any wise the act or thing done.

THE POLL.

olls to be eld, votes by ballot.

24. On the day and at the hour fixed by proclamation as aforesaid, a poll shall be held at each polling station in the county or city, and the votes shall be taken by ballot.

Description of buildings in which polls are to be held.

25. The poll shall be held in each polling district in a room or building of convenient access, with an outside door, for the admittance of the voters, and having, if possible, another door through which they may leave after having voted. One or two compartments shall be made within the room, so arranged that each voter may be screened from observation, and may, without interference or interruption, mark his ballot paper.

Hours for opening and closing polls.

26. Each Deputy Returning Officer shall open the poll assigned to him at the hour of nine of the clock in the morning, and keep the same open until five of the clock in the afternoon; and shall, during that time, receive, in the manner hereinafter prescribed, the votes of the electors duly qualified to vote at such polling place.

Who may be present at the iving of votes.

27. In addition to the Deputy Returning Officer such persons as may have been appointed or admitted under this Act, as agents, and no others, shall be permitted to remain in the room where the votes are given, during the time the poll remains open.

Agent's oath of secrecy.

28. Every agent, on being admitted to the polling station, shall take the oath to keep secret the space in which any of the voters may have marked his ballot paper in his presence, as hereinafter required; such oath shall be in the form of Schedule H to this Act.

Opening, examining and locking ballot box.

29. At the hour fixed for opening the poll the Deputy Returning Officer shall, in the presence of such of the electors and agents as may be present, open the ballot box and ascertain that there are no ballots or other papers in the same, after which the box shall be locked, and the Deputy Returning Officer shall keep the key thereof.

Calling voters.

30. Immediately after the ballot box shall have been locked, as above provided, the Deputy Returning Officer shall call upon the electors to vote.

Where electors shall vote.

31. Each elector shall vote at the polling station of the polling district in which he is qualified to vote, and no other; and it shall be the

duty of the Deputy Returning Officer to secure the admittance of every elector into the polling station, and to see that he is not impeded or molested at or about the polling station.

Provisions as to deputy returning officer or agent entitled to vote.

32. The Returning Officer, on the request of any elector entitled to vote at one of the polling stations, who shall be appointed Deputy Returning Officer, or who shall be appointed to attend as agent at a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such elector is entitled to vote at such polling of votes at the polling station where such elector shall be stationed during the polling day, and on the production of such certificate such elector shall have the right to vote at the polling station where he shall be placed during the polling day, instead of at the polling station of the polling district where he would otherwise have been entitled to vote :—But no such certificate shall entitle any such elector to vote at such polling station unless he has been actually engaged as such Deputy Returning Officer, or agent during the day of polling.

Proviso.

Proceedings to preparatory voting.

33. Each elector, being introduced, one at a time for each compartment, into the room where the poll is held, shall declare his name, surname and addition, which shall be entered or recorded in the voers list to be kept for that purpose by the Deputy Returning Officer, and, if the same be found on the list of electors for the polling district of such polling station, he shall receive from the Deputy Returning Officer a ballot paper on the back of which such Deputy Returning Officer shall have previously put his initials, so placed that when the ballot is folded they can be seen without opening it ; and on the counterfoil to which he shall have placed a number corresponding to that opposite the voter's name on the voters' list : Provided that such elector, if required by the Deputy Returning Officer, or by any elector or agent, as aforesaid, present, shall, before receiving his ballot paper, take the oath or oaths of qualification required by the laws in force in the Province where the election is held, from a voter at the election of a member of the House of Assembly of that Province ; the words "House of Commons of Canada" being in such case substituted for "House of Assembly" or such other change being made to make the oath applicable to the election of a member of the House of Commons of Canada.

Proviso : elector may be sworn.

Declaration and form of oath of voter where no of voters are required by law.

34. If the county or city be one in or for which the election law of the Province where such county or city is situate does not require lists of voters to be made to entitle them to vote, then in such case any elector claiming his ballot paper, shall declare his name, surname, addition and qualification, which shall be entered on a list kept for that purpose by the Deputy Returning Officer ; and before receiving his ballot paper such elector may be required by the Deputy Returning Officer, or by any elector or agent present to take the oath of qualification required by the law in force in such Province from a voter at the election of a member of the House of Assembly ; the words "House of Commons of Canada" being in such case substituted for "House of Assembly," or such other change being made as may be required to make the oath applicable to the election of a member of the House of Commons of Canada.

Mode of voting.

35. The elector, on receiving the ballot paper shall forthwith proceed into one of the compartments of the polling station and there mark

his ballot paper, making a cross in any part of the upper space if he votes for the petition, and in any part of the lower space if he votes against the petition, after which he shall fold it up so that the initials on the back can be seen without opening it, and hand it to the Deputy Returning Officer, who shall, without unfolding it, ascertain by examining his initials and the number upon the counterfoil, that it is the same that he furnished to the elector, and shall first detach and destroy the counterfoil, and shall then immediately, and in the presence of the elector, place the ballot paper in the ballot box.

Electors to vote without delay.

36. Every voter shall vote without undue delay, and shall quit the polling station so soon as his ballot paper has been put into the ballot box.

Ballot paper not to be taken out of station.

37. No elector shall be allowed to take his ballot paper out of the polling station; and whoever shall do so shall thereby incur a penalty not exceeding two hundred dollars, and not less than fifty dollars.

Case of voter who cannot mark ballot paper.

38. The Deputy Returning Officer, on the application of any voter who is unable to read or incapacitated by blindness or other physical cause from voting in the manner prescribed by the Act, shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the sworn agents in the polling station, and of no other person, and by placing such ballot paper in the ballot box.

List of such voters to be kept.

39. And the Returning Officer shall cause a list to be kept of the names of voters whose ballot papers have been so marked, in pursuance of the next preceding section, with the reason why each ballot paper was so marked. And whenever the Deputy Returning Officer shall not understand the language spoken by any elector claiming to vote, he shall swear an interpreter, who shall be the means of communication between him and such elector, with reference to all matters required to enable such elector to vote.

Interpreter.

Entry of names of electors voting on voters' lists.

40. The Deputy Returning Officer shall enter on the voters' list, to be kept by him (in the form of Schedule I to this Act), opposite the name of each elector voting, the word "*Voted*," as soon as his ballot paper shall have been deposited in the ballot box. He shall also enter on the same list the word "*Sworn*" or "*Affirmed*" opposite the name of each elector to whom the oath or affirmation of qualification shall have been administered, and the words "*Refused to be sworn*" or "*Refused to affirm*" opposite the name of each elector who has refused to take the oath or to affirm.

Where no voters' lists required by law such names to be entered on a list made for the purpose.

41. When no lists of voters are required by the law in force in the county or city for which the voting takes place, then the Deputy Returning Officer shall cause the name, surname and addition of every voter to be entered on a list to be made and kept for that purpose; upon which list shall be entered the word "*Voted*" opposite the name of each voter who shall have voted; or "*Sworn*" or "*Affirmed*" or "*Refused to be sworn*" or *Refused to affirm*," as the case may be, as above provided.

Case of voter refusing to swear or affirm.

42. No voter having refused to take the oath or affirmation of qualification required as aforesaid by this Act, when requested so to do, shall receive a ballot paper or be admitted to vote.

No elector to vote more than once.

43. No person shall vote more than once at the same polling of votes under the provisions of this Act.

44. If a person, representing himself to be a particular elector named on the register or list of voters, applies for a ballot paper after another person has voted as such elector, the applicant, upon taking the oath in the form of Schedule J to this Act, and otherwise establishing his identity to the satisfaction of the Deputy Returning Officer, shall be entitled to receive a ballot paper, on which the Deputy Returning Officer shall put his initials, together with a number corresponding to a number entered on the list of voters opposite the name of such voter, and he shall thereupon be entitled to vote as any other elector ; Case of elector in whose name another has voted.

The name of such voter shall be entered on the list of voters, and a note shall be made of his having voted on a second ballot issued under the same name, and of the oath or affirmation of qualification having been required and made, as well as of any objections made by any of the agents. Entry on list.

45. A voter who has inadvertently dealt with the ballot paper given him, in such manner that it cannot be conveniently used, may, on delivering the same to the Deputy Returning Officer, obtain another ballot paper in the place of that so delivered up. Elector spoiling his ballot paper may obtain another.

46. Immediately after the close of the poll, the Deputy Returning Officer shall, in the presence of the agents, and if the agents are absent, then in the presence of at least three electors, open the ballot-box and proceed to count the number of votes given for and against the petition. In doing so he shall reject all ballot papers which are not similar to those supplied by the Deputy Returning Officer ; and all those upon which there is any writing or mark by which the voter could be identified. Counting of votes by deputy returning officer.

47. The other ballot papers being counted, and lists kept of the number of votes given against the petition, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for and the votes given against the petition, respectively, shall be put into separate envelopes or parcels, and those rejected shall also be put into a different envelope or parcel ; and all these parcels, being endorsed so as to indicate their contents, shall be put back into the ballot-box. Duty of deputy returning officer after counting the votes.

48. The Deputy Returning Officer shall take a note of any objection made by any agent or any elector present to any ballot paper found in the ballot-box, and shall decide any question arising out of the objection ; and the decision of such Deputy Returning Officer shall be final, subject only to reversal on a scrutiny as hereinafter provided. Objection to ballot papers.

49. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper, and initialled by the Deputy Returning Officer. To be numbered and initialled.

50. The Deputy Returning Officer shall make out a statement of the accepted ballot papers, of the number of votes given each way, of the rejected ballot papers, of the spoiled and returned ballot papers, and of those unused and returned by him ; and he shall make and keep by him a copy of such statement, and enclose in the ballot-box the original statement, together with the voters' lists and a certified statement, at the foot of each list, of the total number of electors who voted on each such list, and such other lists and documents as may have been used at such election. The ballot-box shall then be locked and sealed, and shall be delivered to the Returning Officer, who shall receive or collect the same, Statement to be enclosed in ballot-box for returning officer. Delivery to returning officer.

Oath of person appointed to deliver ballot-box.

and in case of his being unable to do so, then to one or more persons specially appointed for that purpose by the Returning Officer, and who shall, on delivering the ballot boxes to the Returning Officer, take the oath in Schedule K to this Act.

Oath to be annexed to statement.

51. The Deputy Returning Officer shall take the oath in form, Schedule L to this Act, which shall be annexed to the statement above mentioned.

Certificates to agents.

52. The several Deputy Returning Officers, on being requested so to do, shall deliver to each of the agents, or in the absence of such agents, to the electors present representing them, a certificate of the number of votes given in each interest, and of the number of rejected ballot papers.

Summing up of votes by returning officer.

53. The Returning Officer at the place, day and hour appointed by the proclamation, and after having received all the ballot boxes, shall proceed to open them in the presence of the agents if present, and of at least three electors if the agents are not present, and to add together the number of votes given in each interest, from the statements contained in the ballot boxes returned by the Deputy Returning Officers.

Adjournment if ballot boxes are missing.

54. In case the ballot boxes should not have all been returned on the day fixed for adding up the number of votes given, the Returning Officer shall adjourn the proceedings to a subsequent day, such subsequent day not being more than a week later than the day originally fixed, for the purpose of adding up the votes.

Provision in case of loss of ballot boxes.

55. In case the ballot boxes or any of them have been destroyed or lost, or for any other reason are not forthcoming within the delay so fixed, the Returning Officer shall ascertain the cause of the disappearance of such boxes, and shall call on each of the Deputy Returning Officers whose ballot boxes are missing, or on any other person having the same for the lists, statements and certificates, or copies of the lists, statements and certificates of the number of the votes given in each interest required by this Act, the whole verified on oath—which oath the Returning Officer is hereby authorized to administer; and in case such lists or statements or copies thereof, cannot be obtained, he shall ascertain by such evidence as he may be able to obtain the total number of votes given in each interest at the several polling places, and he shall make his return accordingly, and shall mention specially in his report to be sent with the return, the circumstances accompanying the disappearance of the ballot boxes, and the mode by which he ascertained the number of votes given in each interest.

Special mention in return.

Petition not adopted.

56. In case one-half or more of all the votes polled are against the petition, the same shall be held not to have been adopted; the Returning Officer shall make his return to the Governor-General in Council accordingly.

Petition adopted.

57. In case more than half of all the votes polled are for the petition, the same shall be held to have been adopted; and the Returning Officer shall make his return to the Governor-General in Council accordingly.

Return to be sent to Secretary of State.

58. Within two weeks after the summing up of the votes, if no Judge has appointed a day or place within the county or city for entering into a scrutiny of the ballot papers, as hereinafter provided for, and

in case of such a scrutiny being entered into, then forthwith after the Judge has determined whether the majority of the votes given was or was not in favour of the petition, the Returning Officer shall transmit his return to the Secretary of State, and shall send it with a report of his proceedings, in which he shall make any observations he may think proper as to the state of the ballot boxes or ballot papers as received by him; and in the event of a Judge having determined after a scrutiny of the ballot papers, that the majority of the votes given was or was not in favour of the petition, such return shall be based upon, and shall be conformable to such decision.

What to be transmitted with return.

59. The Returning Officer shall also transmit to the Secretary of State, with his return, the original statements of the several Deputy Returning Officers, referred to in section fifty of this Act, together with the voters' lists used in the several polling districts, and any other lists and documents used or required at such election, or which may have been transmitted to him by the Deputy Returning Officers:

Transmission of return.

2. Such return and report shall be sent through the Post Office, after being registered.

Property of ballot boxes, etc.

60. The property of the ballot boxes, ballot papers, and marking instruments procured for or used at any polling of votes under this Act, shall be in Her Majesty.

SCRUTINY.

A scrutiny may be had on application to a Judge.

61. If within one week after the Returning Officer has summed up the votes and declared the result of the voting, any elector applies upon petition to any Judge of the Superior Court sitting in the District, if in the Province of Quebec; or to the Judge of the proper District or County Court, if in the Province of British Columbia; or to the Judge of the proper County Court, if in any other Province, after giving such notice of the application and to such persons as the Judge directs, and shows by affidavit to the Judge reasonable grounds for entering into a scrutiny of the ballot papers, and the petitioner enters into a recognizance before the Judge in the sum of one hundred dollars, with two sureties (to be allowed as sufficient by the Judge upon affidavit of justification) in the sum of fifty dollars each, conditioned to prosecute the petition with effect, and to pay the party against whom the same is brought any costs which may be adjudged to him against the petitioner; the Judge shall appoint a day and place within the county or city for entering into the scrutiny.

Proceedings upon such application.

62. On the day and at the hour and place appointed, the Returning Officer shall attend before the Judge with the ballot papers in his custody, and the Judge, upon inspecting the ballot papers and hearing such evidence as he may deem necessary, and on hearing the parties, or such of them who may attend, or their Counsel, shall, in a summary manner, determine whether the majority of the votes given was or was not in favour of the petition to the Governor-General in Council:

Notice of scrutiny.

2. At least one week's notice of the scrutiny shall be given by the petitioner to such persons as the Judge directs.

Decision final; costs.

63. The decision of the Judge shall be final, and the costs shall be in his discretion, or he may apportion the costs as to him seems just.

PENALTIES.

Certain acts prohibited.

64. No person shall—

Firstly: Forge or counterfeit or fraudulently alter, deface or fraudulently destroy any ballot paper or the initials of the Deputy Returning Officer signed thereon; or

Secondly: Without authority supply any ballot paper to any person; or

Thirdly: Fraudulently put into any ballot box any paper other than the ballot paper, which he is authorized by law to put in; or

Fourthly: Fraudulently take out of the polling place any ballot paper; or

Fifthly: Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the poll:

Attempts.

No person shall attempt to commit any offence specified in this section:

Contravention a misdemeanor and how to be punished.

Any contravention of this section shall be a misdemeanor; and any person found guilty thereof shall be punishable, if he be a Returning Officer, Deputy Returning Officer or other officer engaged at the polling, by a fine not exceeding one thousand dollars or by imprisonment for any term less than two years, with or without hard labour, in default of paying such fine; and if he be any other person, by a fine not exceeding five hundred dollars, or by imprisonment for any term not exceeding six months, with or without hard labour, in default of paying such fine.

Contravention by election officer, how punished.

65. Every officer who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this part of this Act, shall forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum not exceeding five hundred dollars, in addition to the amount of all actual damages thereby occasioned to such person.

Provisions for maintenance of secrecy.

66. Every officer and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at such polling place; and shall not communicate before the poll is closed to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper or voted at that polling place:

Interference.

2. No officer or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to how any voter at such polling place is about to vote or has voted:

Communicating information.

3. No officer, agent or other person shall communicate at any time to any person any information obtained at a polling place as to how any voter at such polling place is about to vote or has voted:

Secrecy at counting of votes.

4. Every officer and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting; and shall not attempt to ascertain at such counting, or communicate any information obtained at such counting, as to how any vote is given in any particular ballot paper:

Inducing voters to display their ballots.

5. No person shall directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person how he has so marked his vote:

Punishment for contravention.

6. Any contravention of this section shall be punishable by a fine not exceeding two hundred dollars, or by imprisonment for any term

not exceeding six months, with or without hard labour, in default of paying such fine.

67. A person shall, for all purposes of this Act, be deemed to be guilty of the offence of personation, who, at any polling of votes under this Act, applies for a ballot paper in the name of some other person, whether such name be that of a person living or dead, or of a fictitious person, or who having voted once at any such polling applies at the same polling for a ballot paper in his own name. Personation defined. Punishment for personation.

68. The offence of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation by any person, shall be punishable by a fine not exceeding two hundred dollars, and by imprisonment for a term not exceeding six months.

69. The offence of personation shall be deemed to be a corrupt practice within the meaning of this Act. Personation a corrupt practice.

70. No polling of votes under this Act shall be declared invalid by reason of a non-compliance with the rules contained in this Act as to the taking of the poll or the counting of the votes, under the provisions of this Act, or of any mistake in the use of the forms contained in the schedules to this Act, if it appears to the tribunal having cognizance of the question that the polling of votes was conducted in accordance with the principles laid down in this Act, and that, such non-compliance or mistake did not affect the result of the polling Mistakes of form only not fatal.

PRESERVATION OF THE PEACE.

71. Every Returning Officer and every Deputy-Returning Officer, from the time he shall have taken the oath of office until the day after the summing up of the votes, shall be a conservator of the peace, invested with all the powers appertaining to a Justice of the Peace. Returning officer and deputy returning officer to be conservators of the peace.

72. Such Returning Officer or Deputy Returning Officer may require the assistance of Justices of the Peace, constables or other persons present, to aid him in maintaining peace and good order at such polling; and may also, on a requisition made in writing by any agent, or by any two electors, swear in such special constables as he deems necessary. May require assistance of special constables.

73. Such Returning Officer or Deputy Returning Officer may arrest or cause to be arrested by verbal order, and place in the custody of any constables or other persons, any person disturbing the peace and good order at the polling, and may cause such person to be imprisoned under an order signed by him until any period not later than the close of the poll. May arrest disturbers of the peace.

74. The Returning Officer or Deputy Returning Officer may, during any day whereon any poll is begun, holden or proceeded with, require any person within half a mile of the polling station, to deliver him any fire-arm, sword, staff, bludgeon or other offensive weapon in the hands or personal possession of such person, and any person refusing to deliver such weapon shall be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding three months in default of payment of such fine. May demand offensive weapons.

75. Every person convicted of a battery, committed during any day whereon any poll is begun, holden, or proceeded with, within the distance of two miles of the place where such poll is begun, holden or proceeded with, shall be deemed guilty of an aggravated assault, and shall be punished accordingly. Punishment for battery.

Entering polling district armed.

76. Except the Returning Officer or his Deputy, or one of the constables, or special constables appointed by the Returning Officer, or his Deputy for the orderly conduct of the poll and the preservation of the public peace thereat, no person, who hath not had a stated residence in the polling district for at least six months next before the day of such polling shall come during any part of the day upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind, as fire-arms, swords, staves, bludgeons or the like; nor shall any person whosoever, being in such polling district, arm himself, during any part of the day, with any such offensive weapons, and thus armed, approach within the distance of one mile of the place where the poll for such poliing district is held, unless called upon to do so by lawful authority.

GENERAL PROVISIONS.

Approaching polling station armed.

77. No person shall at any polling, either provide or furnish drink or other refreshment at the expense of such person, to any elector during such polling, or pay for, procure or engage to pay for, any such drink or other refreshment.

Treating electors forbidden. Flags, &c., not to be furnished or carried.

78. No person shall furnish or supply any ensign, standard or set of colours, or any other flag, to or for any person or persons whomsoever, with the intent that the same should be carried or used in any county or city on any day of polling under this Act, or within eight days before such day, or during the continuance of such polling, by such person or any other, as a party flag to distinguish the bearer thereof and those who may follow the same as the supporters of the opinions entertained, or supposed to be entertained, by such person in their interest; nor shall any person, for any reason, carry or use any such ensign, standard, set of colours or other flag as a party flag in either interest, within any county or city on the day of any such polling, or within eight days before such day, or during the continuance of such polling.

Punishment for contravention.

79. Every person offending against any of the provisions of the three next preceding sections, shall be deemed guilty of a misdemeanour, punishable by fine not exceeding one hundred dollars, or imprisonment not exceeding three months, or by both, in the discretion of the court.

Sale, &c., of liquor on polling day prohibited.

Punishment.

80. No intoxicating, spirituous or fomented liquors or strong drinks shall be sold or given at any hotel, tavern, or shop or other place within the limits of any polling district, during the whole of any day on which any poll is begun, holden or proceeded with under a penalty of one hundred dollars for every offence; and the offender shall be subject to imprisonment, not exceeding six months, at the discretion of the judge or court, in default of payment of such fine.

PREVENTION OF CORRUPT PRACTICES.

Certain Acts to be deemed bribery. Giving or lending money

81. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly:

(1.) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure, any money or valuable consideration, to or for any voter, or to or for any person, on behalf of any voter, or to or for any person, in order to induce any voter to vote, or refrain from

voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any poll under this Act;

Procuring office or employment.

(2.) Every person who, directly or indirectly, by himself or any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or endeavour to procure any office, place or employment, to or for any voter, or to or for any other person, in order to induce such voter to vote, or refrain from voting, or corruptly does any such act as aforesaid, on account of any voter having voted or refrained from voting at any poll under this Act;

Gifts or promises to induce promotion or the contrary of adoption.

(3.) Every person who, directly or indirectly, by himself or any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavour to procure, or to prevent, or endeavour to prevent, the adoption of any petition under the provisions of this Act, or to procure, or endeavour to procure the vote of any elector at any poll under this Act, or to prevent, or endeavour to prevent, any elector from voting at any poll under this Act;

Accepting the same.

(4.) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or prevents, or engages, or promises or endeavours to procure or prevent the adoption of any petition under the provisions of this Act, or the vote of any voter at any poll under this Act;

Paying money to be used in bribery.

(5.) Every person who advances or pays, or causes to be paid any money to, or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery or corrupt practices at any poll under this Act, or who knowingly pays or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any poll under this Act;

Punishment for bribery.

And any person so offending shall be guilty of a misdemeanor, and shall also be liable to forfeit the sum of two hundred dollars, to any one who shall sue for the same, with full costs of suit: Provided always, that the actual personal expenses of any agent in either interest, his expenses for actual professional services performed, and *bonâ fide* payments for the fair cost of printing and advertising, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act.

Certain acts by voters to be deemed bribery.

82. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:—

Receiving gifts or promises during polling.

(1.) Every voter who, before or during any polling of votes under this Act, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any poll under this Act;

And after the polling.

(2.) Every person who, after any poll under this Act, directly or indirectly, by himself or any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any poll under this Act;

Punishment for such offences.

And any person so offending shall be guilty of a misdemeanor, and shall also be liable to forfeit the sum of two hundred dollars to any person who shall sue for the same, together with full costs of suit.

Offences of treating defined.

83. Every person who corruptly, by himself or by or with any person, or by any other ways or means on his behalf, at any time either before or during any polling of votes under this Act, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment, or provision to or for any person, in order to procure or prevent, or for having procured or prevented, the adoption of any petition under the provisions of this Act, or for the purpose of corruptly influencing such person, or any other person, to give or refrain from giving, his vote at such polling of votes, shall be deemed guilty of the offence of treating, and shall forfeit the sum of two hundred dollars to any person who will sue for the same, with full costs of suit, in addition to any other penalty to which he may be liable therefor under any other provision of this Act.

Penalty.

Giving meat or drink to electors to be deemed an unlawful act.

84. And the giving or causing to be given to any voter on the day of polling on account of such voter having voted or being about to vote, any meat, drink, or refreshment, or any money or ticket to enable such voter to procure refreshments shall be deemed an unlawful act, and the person so offending shall forfeit the sum of ten dollars for each offence to any person suing for the same, with full costs of suit.

Penalty.

Threats of violence, &c., forbidden.

85. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of any force, violence, or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of an injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any poll under this Act, or who by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any poll under this Act, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanor, and shall also forfeit the sum of two hundred dollars to any person suing for the same, with full costs of suit.

Undue influence.

Penalty.

Recital of doubts.

86. And whereas doubts may arise as to whether the hiring of teams and vehicles to convey voters to and from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law, it is declared and enacted, that the hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any agent or other person in either interest, to convey any voter or voters to or from the poll, or to or from the neighbourhood thereof, at any polling of votes under this Act, or the payment by any agent or other person in either interest, of the travelling and other expenses of any voter, in going to or returning from any polling of votes under this Act, are and shall be unlawful acts; and the person so offending shall forfeit the sum of one hundred dollars to any person who shall sue for the same; and any voter hiring any horse, cab, cart, waggon, sleigh, carriage or other conveyance for any such agent, for the purpose of conveying any voter or voters to or from the polling place or places, shall *ipso facto*, be disqualified from voting at such polling of votes under this

Paying for conveyance of voters to poll illegal.

Act, and for every such offence shall forfeit the sum of one hundred dollars to any person suing for the same. Penalty.

87. Every agent or other person in either interest, who corruptly, by himself or by or with any other person on his behalf, compels or induces or endeavours to induce any person to personate any voter, or to take any false oath in any matter wherein an oath is required under this Act, shall be guilty of a misdemeanor, and shall in addition to any other punishment to which he may be liable for such offence, be liable to forfeit the sum of two hundred dollars to any person suing for the same. Subornation of perjury or personation

88. The offences of bribery, treating, or undue influence, or any of such offences, as defined by this Act, personation or the inducing any person to commit personation, or any wilful offence against any one of the seven next preceding sections of this Act, shall be corrupt practices within the meaning of the provisions of this Act. Certain offences to be corrupt practices.

89. No person shall be excused from answering any question put to him in any action, suit, or other proceeding in any court, or before any judge, commissioner or other tribunal touching or concerning any polling of votes under this Act, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person ; but no answer given to any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person other than indictment for perjury, if the judge, commissioner, or president of the tribunal shall give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the judge, commissioner, or tribunal. No excuse of privilege, &c., allowed for not answering questions in proceedings touching polling of votes under this Act.

90. Every executory contract, or promise, or undertaking, in any way referring to, arising out of, or depending upon, any polling of votes under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law ; but this provision shall not enable any person to recover back any money paid for lawful expenses connected with such polling. Contracts or promises relating to polling of votes under this Act to be void.

PENALTIES AND PUNSIHMENTS GENERALLY.

91. Any Returning Officer or Deputy Returning Officer, who refuses or neglects to perform any of the obligations or formalities required of him by this Act, shall for each such refusal or neglect forfeit the sum of two hundred dollars to any person suing for the same. Penalty for neglect of duty by an election officer.

92. All penalties and forfeitures (other than fines in cases of misdemeanor) imposed by this part of the Act, shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt or information, in any of Her Majesty's courts in the Province in which the cause of action arose, having competent jurisdiction ; and in default of payment of the amount which the offender is condemned to pay within the period fixed by the court, the offender shall be imprisoned in the common gaol of the place, for any term less than two years, unless such fine and costs be sooner paid. Enforcement of penalties.

What it shall suffice to state in declaration.

93. It shall be sufficient for the plaintiff, in any action or suit given by this Act, to state in the declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant hath acted contrary to this Act.

Time for bringing action or suit limited.

94. Every prosecution for any misdemeanor under this part of this Act, and every action, suit or proceeding for any pecuniary penalty given by this Act to the person suing for the same, shall be commenced within the space of six months next after the act committed, and not afterwards (unless the same be prevented by the withdrawal or absconding of the defendant out of the jurisdiction of the court), and being commenced shall be proceeded with and carried on without wilful delay.

EFFECTS OF DECISIONS BY VOTES OF ELECTORS.

Effect of non-adoption of petition.

95. When in any county or city one half or more of all the votes polled have been against the adoption of any petition embodied as aforesaid in any notice and in any proclamation, under this the first part of this Act, no similar petition shall be put to the vote of the electors of such county or city for a period of three years from the day on which such vote was taken.

If petition be adopted, the second part of this Act may be brought in force by Order in Council.

96. When any petition embodied as aforesaid in any notice and in any proclamation under this the first part of this Act has been adopted by the electors of the county or city named therein and to which the same relates, the Governor-General in Council may at any time after the expiration of sixty days from the day on which the same was adopted, by Order in Council published in the *Canada Gazette*, declare that the second part of this Act shall be in force and take effect in such county or city upon, from and after the day on which the annual or semi-annual licenses for the sale of spirituous liquors then in force in such county or city will expire ; provided such day be not less than ninety days from the day of the date of such Order in Council ; and if it be less, then on the like day in the then following year : and upon, from and after that day the second part of this Act shall become and be in force and take effect in such county or city accordingly.

Proviso.

No such Order in Council to be revoked for three years, and then only on similar petition, notice and other proceedings.

97. No Order in Council issued under the provisions of this Act shall be revoked until after the expiration of three years from the day of the coming into force under it of the second part of this Act, nor unless nor until a petition to the Governor-General praying for such revocation has been embodied in a notice in writing addressed to the Secretary of State for Canada and signed by one-fourth or more of the whole number of the electors then qualified and competent to vote at the election of a member of the House of Commons in the county or city named in such Order in Council, and such proceedings have been had thereon as are by this Act required to be had on a notice and petition for the bringing of the second part of this Act into force, and more than one-half of all the votes polled have been found to be for the petition for the revocation of such Order in Council ; and each and all of the provisions of the preceding sections of this Act shall apply *(mutatis mutandis)* to every case of a petition and notice for the revocation of an Order in Council under this section, and to the proceedings to be had and taken thereon, and the powers to be exercised and the offences that

Application of provisions of the preceding sections.

may be committed, and the penalties that may be incurred, in the course of and in connection with such proceedings.

PROVISION FOR THE REPEAL OF BY-LAWS PASSED UNDER THE TEMPERANCE ACT OF 1864.

Proceedings for repeal of by-law under 27-28 V., c. 18

98. In case a petition to the Governor-General in Council praying for the repeal of a by-law passed by the Council of any county or city in Ontario or Quebec under the authority and for the enforcement of the said "*Temperance Act of* 1864," is embodied in a notice addressed to the Secretary of State of Canada and signed by one-fourth or more of the electors of such county or city, and such proceedings are had thereon as are by this Act required to be had on a notice and petition for bringing the second part of this Act into force, and more than one-half of the votes polled are found to be for the petition, the Governor-General in Council may, by Order in Council, repeal such by-law, and, thereupon, such by-law shall become and be repealed upon, from and after the day of the publication of such Order in Council in the *Canada Gazette*, and each and all the provisions of the preceding sections of this Act shall apply *(mutatis mutandis)* to every case of a petition and notice for the repeal of a by-law under this section, and to the proceedings to be had and taken thereon, and the powers to be exercised, and the offences that may be incurred in the course of and in connection with such proceedings.

Application of provisions of preceding sections.

SECOND PART.

POHIBITION OF TRAFFIC IN INTOXICATING LIQUORS.

No liquor to be sold, &c., when and where this part of this Act is in force, except for certain purposes.

99. From the day on which this part of this Act comes into force and takes effect in any county or city, and for so long thereafter as the same continues in force therein, no person, unless it be for exclusively sacramental or medicinal purposes, or for *bona fide* use in some art, trade or manufacture, under the regulation contained in the fourth sub-section of this section, or as hereinafter authorized by one of the four next sub-sections of this section, shall, within such county or city, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly, on any pretence or upon any device, sell or barter, or in consideration of the purchase of any other property give, to any other person, any spirituous or other intoxicating liquor, or any mixed liquor capable of being used as a beverage and part of which is spirituous or otherwise intoxicating:

License to be of no effect

2. And neither any license issued to any distiller or brewer—nor yet any license for retailing on board any steamboat or other vessel, brandy, rum, whisky, or other spiritous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors—nor yet any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider, or other vinous or fermented liquors, but not brandy, rum, whisky, or other spirituous liquors—nor yet any other description of license whatever,—shall in any wise avail to render legal any act done in violation of this section.

Proviso: Sales for sacramental purposes.

3. Provided always that the sale of wine for exclusively sacramental purposes shall be made by druggists and vendors as hereinafter provided, only on the certificate of a clergyman affirming that the wine is required for sacramental purposes:

And for medicinal and mechanical purposes.

4. Provided, also, that the sale of intoxicating liquor for exclusively medicinal purposes or for *bona fide* use in some art, trade or manufacture, shall be lawful only by such druggists and other vendors as may be thereto specially licensed by the Lieutenant-Governor in each Province, the number not to exceed one in each township or parish, nor two in each town; and in cities not exceeding one for every four thousand inhabitants; such sale, when for medicinal purposes, to be in quantities of not less than one pint, to be removed from the premises and to be made only on the certificate of a medical man having no interest in the sale by the druggist or vendor, affirming that such liquor has been prescribed for the person named therein; and when such sale is for its use in some art, trade or manufacture, the same to be made only on a certificate signed by two Justices of the Peace of the *bona fides* of the application, accompanied by the affirmation of the applicant, that the liquor is to be used only for the particular purposes set forth in the affirmation; and it shall be the duty of the druggist or other vendor to file the certificates and keep a register of all such sales indicating the name of the purchaser and the quantity sold, and to make an annual return of all such sales on the thirty-first day of December in every year to the Collector of Inland Revenue within whose revenue division the county or city is situated:

Certificate to be produced.

Annual return to be furnished.

Proviso: Distiller or brewer, &c., may sell liquor of his own manufacture in wholesale quantities and to certain persons only.

5. Provided also, that any producer of cider in the county, or any licensed distiller or brewer, having his distillery or brewery within such county or city may thereat expose and keep for sale such liquor as he shall have manufactured thereat, and no other; and may sell the same thereat, but only in quantities not less than ten gallons, or in the case of ale or beer not less than eight gallons at any one time, and only to druggists and others licensed as aforesaid or to such persons as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city in which the second part of this Act is then in force, and to be wholly removed and taken away in quantities not less than ten gallons, or in the case of ale or beer not less than eight gallons at a time:

As to sales by vine-growing companies.

6. Provided also, that any incorporated company authorized by law to carry on the business of cultivating and growing vines and of making and selling wine and other liquors produced from grapes, having their manufactory within such county or city, may thereat expose and keep for sale such liquor as they shall have manufactured thereat, and no other; and may sell the same thereat, but only in quantities not less than ten gallons at any one time, and only to druggists and others licensed as aforesaid, or to such persons as they have good reason to believe will forthwith carry the same beyond the limits of the county or city and of any adjoining county or city in which the second part of this Act is then in force, and to be wholly removed and taken away in quantities not less than ten gallons at a time:

As to sales by manufacturers of pure native wines

7. Provided also, that manufacturers of pure native wines made from grapes grown and produced by them in the Dominion of Canada, may, when authorized to do so by license from the Municipal Council

or other authority having jurisdiction where such manufacture is carried on, sell such wines at the place of manufacture in quantities of not less than ten gallons at one time, except when sold for sacramental or medicinal purposes, when any number of gallons from one to ten may be sold:

Proviso: merchants and traders may sell liquor in wholesale quantities and to certain persons only.

8. Provided also, that any merchant or trader exclusively in wholesale trade, and duly licensed to sell liquor by wholesale, having his store or place for sale of goods within such county or city, may thereat keep for sale and sell intoxicating liquor, but only in quantities not less than ten gallons at any one time, and only to druggists and others licensed as aforesaid, or to such persons as he has good reasons to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city in which the second part of this Act is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time:

Burthen of proof of reasons of belief.

9. In any prosecution against a producer, distiller, brewer, manufacturer, merchant or trader under this section, it shall be incumbent on the defendant to furnish satisfactory evidence of having good reason for believing that such liquor would be forthwith removed beyond the limits of the county or city, and of any adjoining county or city in which the second part of this Act is then in force, for consumption outside the same.

THIRD PART.

Penalties and Prosecutions for Offences against the Second Part.

Punishment of sale, &c., in violation of second part of this Act.

100. Whoever, by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly, on any pretence or by any device, sells, or barters, or in consideration of the purchase of any other property, gives, to any other person, any spirituous or other intoxicating liquor, or any mixed liquor capable of being used as a beverage and a part of which is spirituous or otherwise intoxicating, in violation of the second part of this Act, shall be liable on summary conviction to a penalty of not less than fifty dollars for the first offence, and not less than one hundred dollars for the second offence and to be imprisoned for a term not exceeding two months for the third and for every subsequent offence; and whoever, in the employment or on the premises of another, so exposes or keeps for sale, or sells, or barters, or gives in violation of the said second part of this Act, shall be held equally guilty with the principal, and shall be liable on summary conviction to the same penalty or punishment. And all intoxicating liquors in respect to which any such offence has been committed, and all kegs, barrels, cases, bottles, packages or receptacles of any kind whatever in which the same are contained shall be forfeited.

Forfeiture.

By whom penalties may be sued for.

101. Any prosecution for any such penalty or punishment may be brought by or in the name of the Collector of Inland Revenue within whose official division the offence was committed, or by or in the name of any person.

Excise officer bound to prosecute.

102. It shall be the duty of such Collector of Inland Revenue to bring such prosecution, whenever he shall have reason to believe that any such offence has been committed, and that a prosecution therefor

can be sustained, and would not subject him to any undue measure of responsibility in the premises.

Before whom such prosecution may be brought. In Quebec.

103. Such prosecution may be brought—

In the Province of Quebec, if the offence was committed in the City of Montreal or in the City of Quebec, then before the Recorder or Judge of the Sessions of the Peace at Montreal or Quebec, as may be, or, if the offence was committed in any other part of the Province, then before a Stipendiary Magistrate, or before any two other Justices of the Peace for the district wherein the offence was committed, or, if the district is other than that of Quebec, or that of Montreal, before the Sheriff of such District;

In Ontario.

In the Province of Ontario before any Stipendiary Magistrate or before any two other Justices of the Peace for the county, city or district wherein the offence was committed; or, if the offence was committed in any county, city, or town having a Police Magistrate, then before such Police Magistrate, or, in his absence, then before the Mayor or any two Justices of the Peace—or if the offence was committed in any city or town not having a Police Magistrate, then before the Mayor thereof, or before any two Justices of the Peace;

In Nova Scotia.

In the Province of Nova Scotia before a Stipendiary Magistrate or before any two other Justices of the Peace of the county in which the offence was committed;

In New Brunswick.

In the Province of New Brunswick before any Police, Stipendiary or Sitting Magistrate or Commissioner of a Parish Court, or before any two other Justices of the Peace in and for the county in which the offence was committed;

In Manitoba.

In the Province of Manitoba before the Police Magistrate within whose territorial jurisdiction the offence was committed, or before any two Justices of the Peace in and for the county in which the offence was committed;

In British Columbia.

In the Province of British Columbia before any Stipendiary Magistrate or before any two other Justices of the Peace for the territorial division or jurisdiction within the limits of which the offence was committed;

In Prince Edward Island.

In the Province of Prince Edward Island before the Stipendiary Magistrate for the city or town, or before any two other Justices of the Peace of or for the county in which the offence was committed.

If before a Magistrate no ocher Justice to sit.

104. If such prosecution is brought before any such Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, Sheriff, Police Magistrate, Sitting Magistrate, Commissioner or Mayor, no other Justice shall sit or take part therein.

If prosecution before two Justices, summons shall be signed by one of them.

105. If such prosecution is brought before any two other Justices of the Peace, the summons shall be signed by one of them; and no other Justice shall sit or take part therein, unless by reason of their absence, or the absence of one of them, nor yet in the latter case, unless with the assent of the other of them.

Limitation of prosecution.

106. Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner either upon the confession of the defendant, or upon the evidence of a witness or witnesses.

Provisions of 32 & 33 V. c. 31, to be applicable to such prosecutions.

107. Every offence against the second part of this Act may be prosecuted in the manner directed by the "*Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*," so far as no provision is hereby made for any matter or thing which may be required to be done with respect to such prosecution; and all the provisions contained in the said Act shall be applicable to such prosecutions and tothe judicial and other officers before whom the same are hereby authorized to be brought, in the same manner as if they were incorporated in this Act, and as if all such judicial and other officers were named in the said Act.

Magistrate, &c., may grant a warrant to search for liquor, on receiving certain information on oath.

108. In case a credible witness proves upon oath before the Stipendiary, Police or Sitting Magistrate, Commissioner of a Parish Court, Recorder, Judge of the Sessions of the Peace, Sheriff or Mayor, or before one of the Justices of the Peace before whom any prosecution for an offence against the provisions of the second part of this Act is brought, that there is reasonable cause to suspect that any intoxicating liquor in respect to which such offence has been committed, is in any dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, or other place or places, such Stipendiary, Police or Sitting Magistrate, Commissioner of a Parish Court, Recorder, Judge of the Sessions of the Peace, Justices of the Peace, Sheriff or Mayor, may grant a warrant to search such dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, or other place or places, for such intoxicating liquor, and if the same, or any part thereof, be then found, to bring the same before him; and any information to obtain a warrant under this section may be in the form of Schedule M to this Act; and any search-warrant under this seciton may be in the form of Schedule N to this Act.

Convicting Magistrate &c., may order that liquor seized on a search-warrant may be destroyed.

109. When any person is convicted of any offence against the provisions of the second part of this Act, the Stipendiary, Police or Sitting Magistrate, Commissioner of a Parish Court, Recorder, Judge of the Sessions of the Peace, Justices of the Peace, Sheriff or Mayor, before whom such person is convicted, may adjudge and order, in addition to any other penalty or punishment, that the intoxicating liquor in respect to which the offence was committed, and which has been brought before him in virtue of a search-warrant as aforesaid (whether the same be or be not the property of such person), or not more than twenty gallons thereof, if there be more of it than twenty gallons, be forfeited, and that all kegs, barrels, cases, boxes, bottles, packages, and all other receptacles of any kind whatever, found containing the same, or not more than twenty gallons thereof, if there be more of it than twenty gallons, be broken up and utterly destroyed, and the said intoxicating liquor, or not more than twenty gallons thereof, if there be more of it than twenty gallons, poured out, spilled, wasted, and utterly destroyed; and thereupon such barrels, kegs, cases, boxes, bottles, packages, and other receptacles of any kind whatever, to the extent aforesaid, may be forthwith broken up and utterly destroyed, and the said intoxicating liquor, or not more than twenty gallons thereof if there be more of it than twenty gallons, poured out, spilled, wasted, and utterly destroyed, by the constable or peace officer who executed the search-warrant under which the same was found, or in whose custody the same was afterwards placed by the convicting Magistrate, Commissioner, Recorder, Judge, Justices, Sheriff or Mayor.

Penalty for tampering with witnesses.

110. Any person who, either before or after the summons of any witness in any such case, tampers with any such witness, or by any offer of money, or by threat or otherwise, directly or indirectly, induces or attempts to induce any such person to absent himself or herself, or to swear falsely, shall be liable to a penalty of fifty dollars for each such offence.

Certiorari and appeal taken away in certain cases.

111. No conviction, judgment or order, in any such case, shall be removed by *certiorari* or otherwise, into any of Her Majesty's Superior Courts of Record; nor shall any appeal whatever be allowed from any such conviction, judgment or order, to any Court of General Quarter Sessions, or other Court whatever, when the conviction has been made by a Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, Sheriff, Police Magistrate, Sitting Magistrate or Commissioner of a Parish Court.

Compounding offence and penalty therefor.

112. Any person who, having violated any of the provisions of this Act, or of any Provincial Act which is now or may be from time to time in force in any Province respecting the issue of licenses for the sale of fermented or spirituous liquors, or of "*The Temperance Act of 1864*," compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons with the view of preventing any complaint being made in respect thereof, or if a complaint has been made with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution or otherwise, shall be guilty of an offence under this Act, and on conviction thereof, shall be imprisoned at hard labour in the common gaol of the county or district in which the offence was committed, for any period not exceeding three months.

Punishment of parties to compromise.

113. Every person who is concerned in, or is a party to, the compromise, composition or settlement mentioned in the next preceding section, shall be guilty of an offence under this Act, and on conviction thereof, shall be imprisoned in the common gaol of the county or district in which the offence was committed, for any period not exceeding three calendar months.

Penalty for tampering with witnesses.

114. Any person who, on any prosecution under any of the said Acts tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under any such Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself, or to swear falsely, shall be liable to a penalty of fifty dollars for each offence.

What it shall suffice to state in describing offences.

115. In describing offences respecting the sale or other unlawful disposal of spirituous, fermented, or other intoxicating liquor, or the keeping thereof for sale, in any information, summons, conviction, warrant, or proceeding under the said Temperance Act or under this Act, it shall be sufficient to state the unlawful sale, barter, disposal or keeping of intoxicating liquor simply, without stating the name or kind of such liquor, or the price thereof, or any person to whom it was sold, bartered or disposed of; and it shall not be necessary to state the quantity of liquor so sold, bartered, disposed of or kept, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quan-

Certain facts need not be alleged.

tity, and it shall not be necessary in any such summons, conviction, warrant, or proceeding to negative the circumstances, the existence of which would make the act complained of lawful, but upon any such circumstances being proved in evidence the defendant shall be acquitted; and this provision shall apply whether such circumstances are stated by way of exception in the section under which the offence is laid or in a substantive section or otherwise.

Amendment of information and adjournment.

116. In the event of any variance between the information and evidence adduced in support thereof, the Justices or Magistrate or other officer may amend or alter such information, and may substitute for the offence charged therein, any other offence against the provisions of the said "*Temperance Act of* 1864," or of this Act; but if it appears that the defendant has been materially misled by such variance, the said Justices or Magistrate or other officers shall thereupon adjourn the hearing of the case to some further day, unless the defendant waives such adjournment.

Variance or defect of form not to affect conviction.

117. No conviction or warrant enforcing the same or other process or proceeding under either of the said Acts shall be held insufficient or invalid by reason of any variance between the information or conviction, or by reason of any other defect in form or substance, provided it can be understood from such conviction, warrant, process or proceeding that the same was made for an offence against some provision of such Act, within the jurisdiction of the Justices or Magistrate, or other officer who made or signed the same, and provided there is evidence to prove such offence, and no greater penalty is imposed than is authorized by such Act.

Application to quash conviction to be decided upon the merits.

118. Upon any application to quash such conviction or warrant enforcing the same, or other process or proceeding, or to discharge any person in custody under such warrant, whether such application is made in appeal or upon *habeas corpus*, or by way of *certiorari* or otherwise, the Court to which or Judge to whom such appeal is made or to which or to whom such application has been made upon *habeas corpus*, or by way of *certiorari*, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid, and such Court or Judge may in any case amend the same if necessary, and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process, or proceeding shall be affirmed, or shall not be quashed (as the case may be), and any conviction, warrant, process or proceeding so affirmed or affirmed and amended may be enforced, in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded.

The keeping of liquor for sale shallbe inferred under certain circumstances.

119. When in any house, shop, room or other place in any municipality in which any prohibitory by-law passed under the provisions of "*The Temperance Act of* 1864," or of this Act, is in force, a bar, counter, beer pumps, kegs, or any other appliances or preparations similar to those usually found in taverns and shops where spirituous or fermented liquors are accustomed to be sold or trafficked in are found, and spirituous, fermented or other intoxicating liquor is also found in such house, shop, room, or place, such liquor shall be deemed to have

been kept for sale contrary to the provisions of such Act, unless the contrary is proved by the defendant in any prosecution ; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who keeps therein such liquor for sale.

Passing of money need not be proved.

120. In proving the sale or barter or other unlawful disposal of liquor for the purpose of any proceeding relative to any offence under the said "*Temperance Act of* 1864," or under this Act, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the Justices, Magistrate or other officer or Court hearing the case, is or are satisfied that a transaction in the nature of a sale or barter or other unlawful disposal actually took place.

What evidence shall be necessary for a conviction.

121. In any prosecution under the said Temperance Act or under this Act, for the sale or barter or other unlawful disposal of intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal and certain knowledge, but the Justices or Magistrate or other officer trying the case, so soon as it appears to them or to him that the circumstances in evidence sufficiently establish the infraction of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly.

Proceedings upon information for second or subsequent offence.

122. The proceedings upon any information for committing an offence against any of the provisions of this Act, in case of a previous conviction or convictions being charged, shall be as follows :—

Subsequent offence to be first enquired into, and then previous convictions.

1. The Justices or Magistrate or other officer shall, in the first instance, inquire concerning such subsequent offence only, and if the accused be found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be sentenced accordingly ; but if he denies that he was previously convicted, or stands mute of malice, or does not answer directly to such question, the Justices or Police Magistrate or other officer shall then inquire concerning such previous conviction or convictions ;

Proof of previous convictions.

2. The number of such previous convictions shall be provable by the production of a certificate under the hand of the convicting Justices or Magistrate, or Officer, or of the Clerk of the Peace, without proof of his signature or official character, or by other satisfactory evidence ;

Conviction may be for first offence only.

3. A conviction may in any case be had as for a first offence, notwithstanding that there may have been a prior conviction or convictions for the same or any other offence ;

Conviction for several offences on same day.

4. Convictions for several offences may be made under this Act, although such offences may have been committed on the same day ; but the increased penalty or punishment hereinbefore imposed shall only be recoverable in the case of offences committed on different days, and after information laid for a first offence ;

Amendment for second conviction in event of first being set aside.

5. In the event of any conviction for any second or subsequent offence becoming void or defective, after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the Justices or Magistrate or other officer, by whom such second or subsequent conviction was made, may by summons under his

or their hand require the person convicted to appear at a time and place to be named in such summons, and may thereupon, upon proof of the due service of such summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance ;

What shall be deemed a conviction for a second or subsequent offence.

6. In case any person who has been convicted of a contravention of any provision of the second part of this Act is afterwards convicted of an offence against such provision or against any other provision of the said part, such conviction shall be deemed a conviction for a second offence within the meaning of section one hundred of this Act, and may be dealt with and punished accordingly, although the two convictions may be for acts of different descriptions ; and in case any such person is afterwards again convicted of a contravention of any provision of the said part, whether similar or not to the previous offences, such conviction shall in like manner be deemed a conviction for a third offence, within the meaning of section one hundred of this Act, and may be dealt with and punished accordingly.

Wife or husband competent witnesses.

123. On the trial of any proceeding, matter or question under any of the Acts in the one hundred and twelfth section of this Act mentioned or under this Act, the person opposing or defending or the wife or husband of such person opposing or defending shall be competent and compellable to give evidence in any such proceeding, matter or question.

Sec. 34 of 27-28 Vic., c. 18, repealed ; new section.

124. Section thirty-four of the said Temperance Act is hereby repealed and the following substituted therefor :

Application of penalty in Ontario.

"34. In Ontario, all the said penalties, or any portion of them which may be recovered, shall be paid to the convicting Justice, Justices or Magistrate in the case, and shall by him or them, in case the Inspector of Licences or any officer appointed under authority of the Lieutenant-Governor, is the prosecutor or complainant, be paid to the Inspector and by him applied as the Lieutenant-Governor may direct, and in case such Inspector or officer is not the prosecutor or complainant, then the same shall be paid to the treasurer of the municipality wherein the offence was committed.

Formation of fund to enforce this Act.

"(2.) The Council of every municipality shall set apart not less than one-third part of such fines or penalties received by the said municipality for a fund to secure the prosecution for infractions of this Act."

SCHEDULES.

A.

Form of Notice and Petition for the bringing of the second part of this Act into force

To the Honourable the Secretary of State for Canada.

Sir,—We, the undersigned electors of the county (*or* city) of request you to take notice that we propose presenting the following petition to His excellency the Governor-General, namely :

To His Excellency the Governor-General of Canada in Council.

The Petition of the electors of the county (*or* city) of , qualified and com-

petent to vote at the election of a member of the House of Commons in the said county (*or* city)

Respectfully showeth that your Petitioners are desirous that the second part of "*The Canada Temperance Act*, 1878," should be in force and take effect in the said county (*or* city):

Wherefore your Petitioners humbly pray that Your Excellency will be pleased, by an Order in Council under the ninety-sixth section of the said Act, to declare that the second part of the said Act shall be in force and take effect in the said county (*or* city); And that we desire that the votes of all the electors of the said county (*or* city) be taken for and against the adoption of the said petition.

And your Petitioners will ever pray, &c.

B.

Oath of the Returning Officer.

I, the undersigned, A. B., Returning Officer, under "*The Canada Temperanc Act*, 1878," for the county (*or* city) of , solemnly swear (*or, if he be one o the persons permitted by law to affirm in civil cases*, solemnly affirm) that I will ac faithfully in that capacity, without partiality, fear, favour or affection; So help me God. (*Signature*) A. B., Returning Officer.

Certificate of Returning Officer having taken Oath of Office.

I, the undersigned, hereby certify that on the day of the month of 18 , A. B., the Returning Officer under "*The Canada Temperance Act*, 1878," for the county (*or* city) of , took and subscribed before me, the oath (*or* affirmation) of office, in such case required of a Returning Officer, by section eleven of "*The Canada Temperance Act*, 1878."

In testimony whereof, I have delivered to him this certificate.

Signature. C. D., Justice of the Peace.

C.

Commission of a Deputy Returning Officer.

To G. H. (*insert his legal addition and residence.*)

Know you, that in my capacity of Returning Officer, under "*The Canada Temperance Act*, 1878," for the county (*or* city) of , I have appointed, and do hereby appoint you to be Deputy Returning Officer for the polling district number , of the said county (*or* city) of , there to take the votes of the electors by ballot, according to law, at the polling station, to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll, under the said Act, for the said polling district on the day of , at nine o'clock in the forenoon, at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to take at the said polling place, by ballot, in the manner by law provided, the votes of the electors voting at the said polling place, and after counting the votes given and performing the other duties required of you by law, to return to me forthwith the ballot box sealed with your seal, and enclosing the ballots, voters' list, and other documents required by law, together with this commission.

Given under my hand, at this day of , in the year 18

(Signature) A. B., Returning Officer.

D.

Oath of Deputy Returning Officer.

I, the undersigned, G. H., appointed Deputy Returning Officer for the polling district, No. , of the county (*or* city) of , solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases*, solemnly affirm) that I will act faithfully in my said capacity of Deputy Returning Officer, without partiality, fear, favour or affection. So help me God.

(Signature), G. H., Deputy Returning Officer.

Certificate of a Deputy Returning Officer having taken the oath of office.

I, the undersigned, hereby certify that on the day of the month of G. H., Deputy Returning Officer for the polling district No. , of the county (*or* city) of , took and subscribed the oath (*or* affirmation) of office, required in such case of a Deputy Returning Officer, by section fourteen of "*The Canada Temperance Act*, 1878."

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature), A. B., Returning Officer,
or C. D, Justice of the Peace.

E.

Form of Ballot Paper.

18 .

Voting on the Petition to the Governor-General for the bringing into force of the second part of "*The Canada Temperance Act*, 1878."

N.B.—The crosses are for illustration.

For the Petition. +

Against the Petition. +

N.B.—The crosses are for illustration.

The dotted line will be a line of perforation for easily detaching the counterfoil.

F

Directions for the Guidance of Electors in Voting.

The voter will go into one of the compartments, and, with a pencil there provided, place a cross, thus +, in the upper space if he votes for the adoption of the petition, and in the lower space if he votes against the adoption of the petition.

The voter will then fold the ballot, so as to show a portion of the back only, with

the number and the initials of the Deputy Returning Officer, and deliver it to the Deputy Returning Officer, who will place it in the ballot box. The voter will then forthwith quit the polling station.

If a voter inadvertently spoils a ballot paper he can return it to the proper officer, who, on being satisfied of the fact, will give him another.

If the voter places on the ballot paper more than one mark, or places any mark on it by which it can afterwards be identified, his vote will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the Deputy Returning Officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour.

G.

Form of Declaration of Agent.

I, the undersigned E. F., solemnly declare that I am desirous of promoting (*or* opposing) the adoption of a petition to the Governor-General for the bringing into force in the said county (*or* city) of the second part of "*The Canada Temperance Act*, 1878." *(Signature)* A. B.

Made and declared at this day of , A.D. , before me,
C. D., Returning Officer.

H.

Form of Oath of Secrecy.

I, the undersigned E. F., agent for the electors of the county (*or* city) of interested in promoting (*or* opposing) the adoption of a petition to the Governor-General for the bringing into force in the said county (*or* city) of the second part of "*The Canada Temperance Act*, 1878," solemnly swear (*or if he be one of the persons permitted by law to affirm in civil cases*, solemnly affirm, promise and declare) that I will keep secret the way in which any of the voters at the polling station in the polling district No. , may have marked his ballot in my presence, at this polling of votes for or against such petition: So help me God.

(Signature) E. F.

Sworn (*or* affirmed) at this day of , A.D. , before me,
A. B., Returning Officer,
(*or*) C D.

Form of Voters' List.

Number of the Voters.	Names of the Voters.	Their legal addition.	Their place of residence.	Owners.	Tenants or occupants.	Residence or other qualification.	Objections.	Sworn or affirmed.	Voters refusing to be sworn or affirmed.	Voters voting after others in their names.

NOTE.—*The qualification need not be inserted except where there are no Provincial lists of voters.*

J.

Oath of identity by voter receiving a ballot paper after another has voted in his name.

I solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I am A. B., of *(as in the voters' list)*, whose name is entered on the voters' list now shown me. So help me God.

K.

Oath of Messenger sent to collect the Ballot Boxes.

I, A. B., of , messenger appointed by C. D., Returning Officer for the county (*or* city) of , in the Province of , do solemnly swear that the several boxes to the number of now delivered to me by the said Returning Officer, have been handed to me by the several Deputy Returning Officers at the present polling of votes in the said county (*or* city, *or* by—*here insert the names of the Deputy Returning Officers who have delivered said boxes*), that they have not been opened by me, nor any other person, and that they are in the same state as they were when they came into my possession. *(Should any change have taken place, the deponent shall vary his deposition by fully stating the circumstances).*

(Signature) A. B.

Sworn (*or* affirmed) and subscribed before me, at this day of in the year 18 .

(Signature) X. Y.,
Justice of the Peace,
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

L.

Oath of the Deputy Returning Officer after the closing of the Poll.

I, the undersigned Deputy Returning Officer for the polling district, No. of the county (*or* city) of , do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases,* do solemnly affirm) that, to the best of my knowledge and belief, the voters' list, kept for the said polling district under my direction, hath been so kept correctly; and that the total number of votes polled in the said list is , and that, to the best of my knowledge and belief, it contains a true and exact record of the votes given at the polling station in the said polling district as the said votes were taken thereat; that I have faithfully counted the votes given for each interest, in the manner by law provided, and performed all duties required of me by law, and that the report, packets of ballot papers, and other documents required by law to be returned by me to the Returning Officer, have been faithfully and truly prepared and placed within the ballot box, as this oath (*or* affirmation) will be, to the end that the said ballot box being first carefully sealed with my seal, may be transmitted to the Returning Officer according to law.

(Signature) G. H.,
Deputy Returning Officer.

Sworn before me at , in the County of , this day of , 18 .

(Signature) X. Y.,
Justice of the Peace.
or A. B.,
Returning Officer.

M.

Information to obtain a Search Warrant.

CANADA,
PROVINCE OF
DISTRICT, (*or*, County, *or*, *as the case may be*) of

The information of K. L., of the of in the said District (*or* County, &c., *yeoman*), taken this day of in the year of Our Lord before me, W. S., Esq., one of Her Majesty's Justices of the Peace, in and for the, district (*or*, County, *or*, United Counties, *or as the case may be*) of , who saith that he hath just and reasonable cause to suspect, and doth suspect, that intoxicating liquor in respect to which an offence against the second part of "*The Canada Temperance Act*, 1878," hath been committed, is concealed in the (*dwelling house, &c.*) of P. Q., of in the said District (*or* County, &c.) (*here add the causes of suspicion and the particulars of the offence, whatever they may be*):

Wherefore he prays that a Search Warrant may be granted him to search the (*dwelling house, &c.*) of the said P. Q., as aforesaid, for the said intoxicating liquor.

Sworn *or* affirmed) on the day and year first above mentioned, at , in the said District (*or* County, &c.) of , before me,

(*Signature*) W. S.,
J. P.

N.

CANADA,
PROVINCE OF
DISTRICT (*or* County, *or as the case may be*) of

To all or any of the Constables, or other Peace Officers, in the District (*or*, County, *or as the case may be*) of

Whereas, K. L., of the of in the said District (*or*, County, &c. hath this day made oath before me, the undersigned, one of Her Majesty's Justices of the Peace in and for the said District (*or*, County, &c.) of that he hath just and reasonable cause to suspect, and doth suspect, that intoxicating liquor in respect to which an offence against the second part of the "*Canada Temperance Act*, 1878," hath been committed, to wit, in respect to which (*here describe the offence in the words of the information*) is concealed in the (*dwelling-house, &c.*) of one P. Q., of in the said District (*or*, County, &c.) of . These are, therefore, in the name of our Sovereign Lady the Queen, to authorize and require you and each and every of you, with necessary and proper assistance, to enter in the daytime into the said (*dwelling-house, &c.*) of the said P. Q., and diligently search for the said intoxicating liquor; and if the same or any part thereof shall be found upon such search, that you bring the intoxicating liquor so found, or gallons thereof, if there be more than twenty gallons so found, and also all barrels, kegs, cases, boxes, packages and other receptacles of any kind whatever containing the same before me to be disposed of and dealt with according to law.

Given under my hand and seal at in the said District (*or* County, &c.) this day of in the year of Our Lord .

(*Seal*) W. S.,
J. P.

ADDENDA.

42 VICTORIA, CHAP. 50.

An Act to remove doubts as to the true intent and meaning of certain provisions of "The Canada Temperance Act, 1878," and to make certain amendments thereto in so far as the said Act relates to Manitoba.

[*Assented to 15th May*, 1879.

Preamble. 41 Vic. c. 16. Recital. 27-28 V. c. 1.

WHEREAS it is provided by "*The Canada Temperance Act*, 1878," that as to every municipality within the limits of the late Province of Canada, in which a by-law passed and approved, or adopted and passed under the authority and for the enforcement of "*The Temperance Act of* 1864," is at the time of the passing of the said "*The Canada Temperance Act*, 1878," (*a*) in force, or (*b*) only not in force for want of delivery of a copy thereof to the proper officer, or (*c*) suspended as to its operation until the expiration of the then existing licenses, the sections one, two, three, four, five, six, seven, eight, nine and ten of the said "*The Temperance Act of* 1864" shall be repealed from and after the day next following the day on which such by-law is repealed, under the provisions of the said last-named Act or of the said "*The Canada Temperance Act*, 1878;"

Recital.

And whereas it is provided by the Act last mentioned if proceedings to repeal such by-law be taken under the provisions of "*The Canada Temperance Act*, 1878," such by-law shall become and be repealed upon from and after the day of the publication of the proper Order in Council in that behalf in the *Canada Gazette;*

Recital.

And whereas, if proceedings to repeal such by-law be taken under the provisions of the said "*The Temperance Act of* 1864," doubts have arisen whether, having reference to the eighth section of the said Act, such by-law becomes repealed immediately upon the passing of the repealing by-law with the necessary approval of the electors, or whether the repeal of such by-law is suspended in the Province of Quebec (formerly Lower Canada) until the first day of May, and in the Province of Ontario (formerly Upper Canada) until the first day of March next after the passing of the repealing by-law;

Recital.

And whereas it is expedient to remove such doubts, and to assimilate the effect of the proceedings to repeal, whether taken under "*The Canada Temperance Act*, 1878," or "*The Temperance Act of* 1864;" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Intent of sec. 3 of 41 V., c. 16, declared as to when the repeal of 27-28 V., c. 18, is to take effect.

1. The true intent and meaning of the third section of "*The Canada Temperance Act*, 1878," was and is, that sections one, two, three, four, five, six, seven, eight, nine and ten of "*The Temperance Act of* 1864," become repealed as to every municipality referred to in the preamble of this Act, upon, from and after the day next following the day on which the repealing by-law above referred to, passed under the provisions of "*The Temperance Act of* 1864," has been duly passed according to such provisions, and the repeal of such sections is not suspended till the first day of May or the first day of March next after the passing of such repealing by-law.

Provisions as to the word "county" as regards the Province of Manitoba

2. Whereas it has been found that, under the present county organization in the Province of Manitoba, the Canada Temperance Act, 1878, cannot properly be brought before the people inhabiting the rural districts: Therefore, whenever in the Canada Temperance Act, 1878, the word "county" is used, it shall, when applied to the Province of Manitoba, be regarded as meaning the electoral districts therein, in accordance with the divisions of the said Province at the general election of 1878, for the House of Commons, except the Electoral District of Selkirk, from which, for the purposes of the said Act, the City of Winnipeg is to be regarded as separate: Provided always that, at any future time, when the said Province shall have been divided into counties, and a regular municipal organization established in each of the then counties, the said Act, as it now stands, shall be applied to the then counties, as in the other Provinces of the Dominion.

Proviso.

As to notices under s. 6 in Manitoba.

3. The notice provided for in section six of the said Act shall, so far as relates to Manitoba, be deposited in the registry offices in the respective electoral districts, or in the sheriffs' offices in such districts.

Word "county" in schedule how to apply in Manitoba.

4. In the schedules of the said Act, where the word "county" occurs, it shall, so far as the Province of Manitoba is concerned, be regarded as meaning "Electoral District," until such time as the Province shall have been divided as contemplated in the proviso of section one of this Act.

AMENDMENTS
MADE DURING SESSION OF 1884.

An act to amend "The Canada Temperance Act, 1878."

[*Assented to* 21*st April*, 1884.

WHEREAS it is expedient to amend the Act forty-first Victoria chapter sixteen, intituled "An Act respecting the traffic in Intoxicating Liquors," as hereinafter set forth; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section ninety-six of the Act above cited is hereby amended by adding thereto the following words:—

"And if in any county or city there are no licenses in force when the petition mentioned in the first part of this Act is adopted, then the second part of this Act shall become and be in force and take effect in such county or city after the expiration of thirty days from the day of the date of an Order in Council to that effect, published in the *Canada Gazette*."

2. If any Order in Council has been published in the *Canada Gazette* declaring that the second part of "*The Canada Temperance Act*, 1878," shall be in force and take effect in any county or city upon, from and after the day on which the annual or semi-annual licenses for the sale of spirituous liquors then in force in such county or city will expire; and if, in fact, there were at the date of such publication no such licenses then in force in such county or city; then the second part of "*The Canada Temperance Act*, 1878," shall be deemed to have been in force and taken effect in such county or city at the expiration of thirty days from the date of such Order in Council.

3. Nothing herein shall be construed so as to:

(*a*) Affect any existing legal right or remedy in respect of any prosecution heretofore brought under the second part of "*The Canada Temperance Act*, 1878;"

(*b*) Authorize the bringing hereafter of any prosecution for any offence committed against the second part of the said Act prior to the passing of this Act;

(*c*) Affect any cause of action now existing, or any suit, action, prosecution or proceeding now pending.